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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,643	11/02/2000	Vojin Jeremijevic	Q61622	8866

7590 02/22/2005  
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EXAMINER

MAJORINO, ROZ

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/674,643

Applicant(s)

JEREMIJEVIC, VOJIN

Examiner

Roz Maiorino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 15-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-22 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 23-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-2, 23-31, 33-36 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent NO.5925020 to Nestell.

Nestell teaches a syringe with a sleeve having a bore defined on a given axis, said through bore being of a section that is not less than that of the needle to be protected; a first link having first and second ends. Said link being of a length between the two ends, wherein the first link is able to take at least three positions when the needle is positioned vertically upright with the sharp end of the needle above the base end of the needle, the three positions being an equilibrium starting position, an equilibrium in use position, and a locked position; a first resilient return hinge means for connecting the first end of the first link to the sleeve, the resiliency of the first hinge means allowing the first link to take one of the equilibrium in use position and the equilibrium starting position. (Figures 2-5)

***Claim Rejections - 35 USC § 103***

2. Claim 3 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent NO.5925020 to Nestell.

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Nestell teaches a syringe with a sleeve having a bore defined on a given axis, said through bore being of a section that is not less than that of the needle to be protected; a first link having first and second ends. Said link being of a length between the two ends, wherein the first link is able to take at least three positions when the needle is positioned vertically upright with the sharp end of the needle above the base end of the needle, the three positions being an equilibrium starting position, an equilibrium in use position, and a locked position; a first resilient return hinge means for connecting the first end of the first link to the sleeve, the resiliency of the first hinge means allowing the first link to take one of the equilibrium in use position and the equilibrium starting position. (Figures 2-5)

Nestell does not teach two link members, however it would have been obvious to Duplicate the link member and the cracker arm for multiple effect. In re Harza, 274 F.2d 669, 671, 124 USPQ 378, 380(CCPA 1960)

### ***Allowable Subject Matter***

3. Claims 15-22 allowed.

### ***Response to Arguments***

4. Applicant's arguments filed 12/27/2005 have been fully considered but they are not persuasive applicant alleges Nestell does not teach a first link able to take at least 3 positions when the needle is positioned vertically upright with the sharp end of the needle above the of the needle. However Nestell does teach that limitation as

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demonstrated by figures 2,3, and 5.. Nestell also teaches a an actual angle with respect to the axis of the through bore. .

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Maiorino whose telephone number is 571- 272-4960. The examiner can normally be reached on 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4377. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RM



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